



FREEDOM OF INFORMATION CENTER PUBLICATION NO. 22

STUDY CIRCLES FOR THE PRESS

Dr. Vincent Naeser, co-owner of Denmark's leading conservative daily, entitled this article "A Memorandum on the Danish Study Circle on the Freedom of the Press." In it he discusses formation and composition of the Danish Circle and the content of the Circle's Bulletin, *Pressen i Dag* (The Press of Today), giving as a major example an article on access to public documents in Sweden. Dr. Naeser's suggestion of establishment of similar centers in the United States is being studied by the Freedom of Information Center where comments on the proposal will be appreciated. The Center expects to publish more on the proposal.

Leading personalities from many circles everywhere are beginning to feel anxious about the functioning of the press and its modern correlatives, radio and television, and the part they may have to play in our rapidly changing world. Many of us have been feeling that the general principles of these factors should be keenly studied by representative personalities in the different countries not only for national reasons but also because of the decisive role of these mass communication media in international affairs and more especially in the development of backward or underindustrialized countries.

Three years ago some of my friends and I invited about 40 of our friends to form a study circle on the freedom of the press.

The founders of the circle are: Mr. Ernst Christiansen (at present one of Denmark's representatives to the United Nations, former minister of state in the Ministry of Foreign Affairs, former foreign news editor of *Social Demokraten*, and a board member of the State Radio); Dr. Harald Joergensen (a director at the Royal Archives, a board member of the Danish Periodical Press Association [trade papers, industrial, scientific periodicals, etc.], editor of *Pressen*—the official organ of the said association, and leading Danish press historian); Mr. Bernt Hjejle (D.C.L., president of the Danish Law Society, board member of the Danish Society for Cultural Freedom, and author of *Press and Society*); and myself (M.D., Copenhagen, co-owner of the 210-year-old *Berlingske Tidende*, a founder of the first Danish Students International Committee, and League of Nations Union, the *Berlingske* Press Library, and one of the founders and a former president of the Danish Press Museum).

About 35 interested people met and decided to have yearly meetings and tentatively to establish a secretariat led by Dr. Hakon Stangerup (associate professor at the Commercial High School of Copenhagen, leading literary historian, lecturer, editorial writer of *Dagens Nyheder*, a board member of the Danish State Radio, co-editor (with Mr. Hjejle) of the *Berlingske* Press Library, and

a member of the Danish UNESCO National Committee), and Mr. Martin Andersen (M.A., founding editor of the first Danish rural weekly, and an economic advisor to the *Berlingske Tidende*, author of the first comprehensive Danish reference work on modern newspapers in Denmark). Mr. Andersen further compiles and edits the Circle's bulletin, *Pressen i Dag* (The Press of Today), which appears about ten times a year and in which we try to follow the status of the press of the world.

To give an idea of the bulletin, let me cite for you the list of contents of two characteristic issues; the September 1958 issue:

- "Public Access to Official Documents in Sweden"
- "Droit de Réponse" [Right to Answer]
- "The Press and Society"
- "The Western Press Through Soviet Eyes"
- "Court Reporting in Great Britain"
- "Comments on Rights of Anonymity"

and the March 1959 issue:

- "Press Responsibility and the Common Man's Good Name"
- "A Controlled or a Free Press"
- "Press Conditions in Spain"
- "The Press in Austria"
- "A Monopoly Paper on Its Monopoly"
- "The President of Italy on Responsibility of the Press"

And let me also translate for you two characteristic notes as follows:

THE NEW FRENCH PRESS CODE
Attack on Freedom of the Press
or Prevention of Abuse?

The recent amendment to the French Penal Code represents drastic intervention in the normal informational activities and freedom of expression of the press. As yet it is impossible to judge the scope of the new rules but they have given rise to a storm of protest among the French papers, regardless of individual party allegiances. So far it appears that the new law is being administered "with moderation." That ultimately it will have far-reaching consequences seems obvious, a fact that applies equally to papers with a preference for crime reporting and to more serious publications. According to Order of December 23, 1958, the amendment in question became a part of the Penal Code as of March 2, this year.

(from the April-May 1959 issue)

[What follows is a longish "note" from the bulletin. — Editor.]

PUBLIC ACCESS TO OFFICIAL DOCUMENTS IN SWEDEN

Public access to information within the judiciary branch has within the last 40 years become a natural part of the structure of free and democratic societies. There has, however, been no similar development with regard to the administration. This is a field where absolutism seems to have held its own within many — if not a majority of — democratic countries. In many countries and particularly in the United States and Great Britain, the press has been fighting for years for recognition and application of the principle of public access within federal as well as local government.

The question is currently being studied by commissions in Denmark and Norway. The Danish commission was appointed a few years ago "to investigate and report on the question of whether the principle of public access is applicable to the federal and municipal administration, and if so to what extent and by what procedure." Whereas the Norwegian commission recently issued its report, it is expected that it will be still another couple of years before the Danish commission concludes its study.

One of the few countries in which the principle of public access is fully recognized and applied is Sweden. Any Swedish citizen may demand access to case documents for acquainting himself with the contents and, if he wants, even copying them or publishing them. These rights are contained in Chapter 2 of the *Publishing Code* ("Public Actions and the Public Access").

We have asked a member of the Swedish press, who is familiar with this question, to tell a little bit about the practical application of the public access principle in Sweden. Here is the report on how things work within this field in his country:

The importance accorded in Sweden to public access — and thus to access of the press to official administration documents — is clearly shown in the introduction to a bill proposed in the Swedish Parliament last year (1957). The bill was the result of initiative by members of the press in close collaboration with one of the country's leading experts on freedom of the press, Dr. Gustaf Pretrén. This introduction to the bill stated: "One of the most important aids at the disposal of the public in the question of reviewing administrative and legal decisions is the basic rule of public access to official documents, a provision specific to Sweden. This provision affords the possibility of checking the activity of leading federal as well as state and local authorities. It guarantees in effect that — in so far as practicable — all written manifestations of public life can be made available to the impartial scrutiny and criticism of the public. The principle of public access to official documents has gradually pervaded our entire administration from top to bottom — as well as our courts of law — and this principle is today a cornerstone in our whole democratic order of society."

Another outstanding expert in the field of freedom of the press, Professor Hilding Eek, former journalist and

chairman of the Swedish Association of Journalists, at present acting as secretary to the Swedish Press Opinion Board (an institution self-imposed by the whole Swedish press), should also be mentioned in this context. In a work on the new Freedom of the Press Act of 1949 he states that the free access to public documents. . .

gives the press, in its role of constitutionally provided control factor and disseminator of news, the possibility of observing public life in detail as well as in overall action. Public access to public documents thus becomes a major judicial principle in the law on freedom of the press. The provisions of public access is a result of the same idea which led to the establishment of a free press endowed with the right to criticize, and which persists in its efforts to guard against dangers which threaten from various quarters — even in modern society.

These last words: "...and which persists in its efforts to guard this freedom against the dangers which threaten from various quarters — even in modern society" gives the very idea exemplified by the bill. Members of the press must never resign themselves to the results already achieved, they must seek unrelentingly to purify, widen, and extend its channels of information. In the present instance, an attempt is being made to further liberalize access to public documents. As the Declaration of the Freedom of the Press reads at the moment, access to a public document is limited to such individuals who are already aware of its existence. Obviously, if a document is not known to exist, no one is in a position to request access to it. Its contents might thus remain unrevealed in spite of it being of great interest for public life in general.

PRACTICAL ARRANGEMENTS

All government bureaus and the majority of central public offices traditionally set aside and provide separate localities for the press with typewriters and telephones. Here all ingoing and outgoing written communications automatically are posted as they occur. Not all authorities, however, show the same degree of cooperation, and the risk of screening such instances may be considerable, particularly in the case of documents whose existence is not known to the public.

The object now is to seal this loophole effectively; and also to have various other details improved upon by amending the actual basis — the rules governing the freedom of the press — with provisions defining the obligations of the appropriate federal, state and municipal authorities with regard to affording outside parties an overall perspective of all such documents in their possession.

The demand for a thorough review of the entire question has been well received by the powerful Constitution Committee which feels the matter should be taken care of through more specific amendments to the Administrative Procedure Act of 1955 (*verkstadgan*) which directs executive civil servants to take special measures for easing the access of outside parties, i.e., the press and other interested parties, to information on administrative matters.

What, however, is at least equally important is the fact that the Committee feels the time has come for a

revision of the Classified Documents Act (*sekretesslagstiftningen*) on the background of present-day conditions and past experience. The Committee also feels that such a revision should take up the question of whether—and to what extent in comparison with current practice—dispensation from this Act may be granted. The Constitution Committee's unanimous statement has received the full support of Parliament.

A FUNDAMENTAL RIGHT

That is the status of public access to official documents in Sweden. But there is still—as will be apparent—room for improvement despite the many beneficial measures introduced since Sweden in 1766 was the first country in the world to guarantee freedom of the press.

The original Swedish law, as well as its successive amendments, is the only such provision in the world enacted in the form of a constitution. Similar to Sweden's three other fundamental laws, it is of a higher order than and superior to other laws, and may only be amended by the concurring decision of two sessions of Parliament divided by general election.

In Sweden it is thus a fundamental law which gives every citizen the right to acquaint himself with federal, state, and municipal documents. That bona fide freedom of the press necessarily must be based on the right of the individual to study documents on which the courts and other authorities base their decisions was obvious to Swedish statesmen as early as the first half of the 18th century.

There are, of course, limitations, primarily where national defense and foreign policy are concerned. These limitations which have been the subject of much controversy and may be detrimental or inconvenient to the individual citizen are contained in the previously mentioned Classified Documents Act of 1937.

In spite of many shortcomings in the practice of the Swedish public access system it is possible on the whole to agree with the statement that "the public access principle functions perfectly and has given no cause for concern," a statement recently given to members of the present official Danish Parliamentary Commission on Public Access by Sweden's "Ombudsman" (a sort of special judicial trustee of the Swedish Parliament, a recent and unique Scandinavian institution, a sort of independent referee and trouble shooter within the jurisdiction of administrative affairs appointed by Parliament) who along with the Swedish Parliament's special military trustee has received specific instructions to enforce the full implementation of the constitutional law guaranteeing freedom of the press.

PUBLIC SCRUTINY

Finally we give the Swedish Ministry of Justice's view on the subject as expressed in a statement to a Danish Administration Commission:

The object of the rules on public access to official documents has been to promote general information and free exchange of opinion concerning administrative operations. In this way, the authorities are subjected to public scrutiny in the interests both of law and order, and of expediency within the administration. This is still the most significant aspect of the public

access system. Scrutiny is primarily exercised by the press which on a day-to-day basis reports on, analyzes, and criticizes administrative activities. Access to official documents provides an important source for the press in its dissemination of news. To a much greater degree than in many other countries, wire services and newspapers (in Sweden) are able to consult the basic written material for information on administrative activities. Safe to say, the general impression is that this fact has been beneficial to accurate news reporting as well as to the public's check on the administrative record. (*Pressen i Dag*, September 1958)

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Our bulletin already has been found to promote in Denmark the idea of closely following international press trends, within wide Danish press circles, and copies are now distributed free to interested editors.

In the second year we decided to invite a small number of prominent people to join us and to prepare a list of an even wider circle to be invited to special meetings when subjects of a wider nature were discussed.

A rather special meeting was the one held in August 1959, when we listened to an address by Mr. Erwin D. Canham who kindly stopped on his home journey from his visit to Moscow to speak to us and to take part afterward in a very interesting off-record discussion. We also have plans for inviting some other representative Americans as well as Professor Dovifat of the Free University of West Berlin.

It should be mentioned here that a study circle has been organized in Western Germany, "*Studienkreis für Presserecht und Pressefreiheit*" (Study Circle on Press Law and Freedom of the Press). This study circle was set up in 1956, partly to defend freedom of the press, in collaboration with leading judges, public prosecutors and university professors, to discuss and investigate press law problems, and thus arouse interest for the problems of the press among influential members of the administration, the courts, and science.

The circle meets twice a year and is financially supported by some of Western Germany's largest dailies. It may be added that its work has been universally recognized and that it has begun an exchange of views with a similar institution in France as well as the Copenhagen study circle.

After visiting schools of journalism in the United States and after having taken part in the magnificently arranged World Press Congress in the widely renowned University of Missouri School of Journalism at Columbia, I have come to the conclusion that it might perhaps be of interest for the Freedom of Information Center at Columbia to promote the setting up of such local private or semi-private centers as ours in Copenhagen.

No doubt leading newspapers or other public-spirited institutions would have pleasure in sponsoring such undertakings. In Copenhagen the costs have been very small and have until now been covered by *Berlingske Tidende* which has always taken an interest in undertakings to ensure freedom of the press.

Columbia, Missouri
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